

**SHORTENED TIMELINE MEMORANDUM**

Utility: Waste Connections of Alaska, Inc.

Date: 1/11/2024

File No.: TA151-692 Residential Disposal Surcharge

Date Filed: 12/27/2023

Statutory End Date: 2/12/2024

Requested Effective Date: 2/1/2024

Issue: Request to Shorten Statutory Review Period

Tariff Intake (Initial Review): Jeff Williams

Staff Assignment (Tariff Review): Keiba Kimp

Tariff Recommendation:

Staff recommends that the Commission grant Waste Connections of Alaska Inc. d/b/a Alaska Waste's (WCA) request to shorten the statutory review period based on a finding that the company demonstrated good cause exists to justify a shortened statutory notice period.

Prepared by: Jeffery Williams Title: Utility Tariff Analyst  
Jeff Williams

Commissioner decision re this recommendation:

	DATE (if different from 1/11/2024)	I CONCUR	I DO NOT CONCUR
Doyle		<u>BD</u> BD	
Espindola		<u>JE</u> JE	
Kurber		<u>KKI</u> KKI	
Pickett	<u>1/12/2024</u>	<u>BP</u> BP	
Wilson	<u>1/12/2024</u>	<u>JW</u> JW	

Instructions to Staff: \_\_\_\_\_

## M E M O R A N D U M

TO: Commissioners:

DATE: January 11, 2022

Robert A. Doyle, Chairman

John Espindola

Statutory End Date: February 12, 2024

Keith Kurber II

Robert M. Pickett

Requested Effective Date: February 1, 2024

Janis W. Wilson

FROM: Jeff Williams, Utility Tariff Analyst

Subject: Request to Shorten Statutory Review Period

### Statement of Case

The Commission must decide whether WCA has shown good cause exists to justify shortening the 45-day statutory notice period for TA151-692.

### Recommendation

Staff recommends that the Commission grant WCA's request to shorten the statutory review period based on a finding that the company demonstrated good cause exists.

### Background

On October 25, 2022, Anchorage Municipal Assembly (Anchorage Assembly) adopted Ordinance No. 2022-91(S-1), which amended the Anchorage Municipal Code Sections 26.80.050 and 26.080.070 to increase rates for the Solid Waste Services Disposal Utility (SWSDU).<sup>1</sup> That ordinance increased the 2023 rates for SWSDU and authorized SWSDU to increase rates in the following years by a percentage each year. The increase in 2024 is 5%.<sup>2</sup>

### Procedural History

On December 27, 2023, WCA filed a tariff revision seeking to increase its residential disposal surcharge. Under normal tariff processing timelines, the tariff revision designated as TA151-692 would go into effect 45 days after filing, or on February 12, 2024. Staff has not completed their review of the filing and this memorandum is not recommending approval of the residential disposal surcharge proposed with TA151-692. The sole purpose of this memorandum is to recommend that the Commission grant WCA's requests of a shortened statutory notice period.

### Analysis

The statutory review period for tariff revisions is established by AS 42.05.411(a), which provides that a public utility may not place into effect new or revised tariff provisions

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<sup>1</sup> See TR2400028, filed January 2, 2024.

<sup>2</sup> *Id.*, at Section 3.

except after 45 days' notice to the Commission and 30 days' notice to the public.<sup>3</sup> That statute also provides that the Commission may, for good cause shown, allow changes to take effect on less than 45 days' notice to the Commission. 3 AAC 48.300 recognizes Commission's discretion to allow a tariff filing to take effect before the end of the 45-day statutory notice period, requiring the utility to include the request in its tariff advice letter and imposing the burden of showing good cause on the filing utility.<sup>4</sup>

WCA requests that this tariff filing be approved, effective February 1, 2024. With this filing, WCA is proposing to increase the Residential Disposal Surcharge. WCA states that the change in landfill fees is fully outside of WCA's control and it is in no way affiliated with the landfill facility. In addition, WCA does not earn a return on the disposal surcharge. Customers are not prejudiced in this filing because the disposal surcharge is simply a pass through of the cost of disposal. If the shortened statutory notice period is not waived and the revised residential surcharge is not effective by January 31, 2024, for February services, WCA states it will suffer irreparable financial harm. WCA states that because it bills its residential customers quarterly in advance, WCA estimates \$61,000 in foregone residential revenues if the surcharge is not allowed to go into effect until the end of the statutory 45-day timeline. WCA also states that there is no balancing account in place, and therefore no means by which WCA could recover the two months of lost revenues.<sup>5</sup>

Staff notes that WCA's Residential Disposal Surcharge does not include a balancing account. Staff concurs with WCA that, should WCA not be able to implement the updated Residential Disposal Surcharge in time to allow for its billing for February services, the

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<sup>3</sup>AS 42.05.411(a) states:

A public utility may not establish or place in effect any new or revised rates, charges, rules, regulations, conditions of service or practices except after 45 days' notice to the commission and 30 days' notice to the public. Notice shall be given to the commission by filing with the commission and keeping open for public inspection the revised tariff provisions, which shall plainly indicate the changes to be made in the schedules then in force and the time when the changes will go into effect. The commission shall prescribe means by regulation whereby notice is given to the public before or no later than 15 days after the filing that is reasonably adequate to notify customers affected by the filing. The commission, for good cause shown, may allow changes to take effect on less than 45 days' notice to the commission or 30 days' notice to the public under conditions the commission prescribes.

<sup>4</sup> 3 AAC 48.300 (*Waiver of Statutory Notice*) provides in pertinent part:

(a) When a utility or pipeline carrier includes in its advice letter a request for authorization for a tariff filing to take effect before the end of the statutory notice period, the burden of showing good cause for waiving statutory notice must be borne by the filing utility or pipeline carrier.

(b) In response to each request under (a) of this section, the commission will, in its discretion

(1) deny the request and require at least the statutory notice period to expire before allowing the filing to take effect;

(2) grant the request as of the effective date specified;

(3) allow the filing to take effect before the end of the statutory notice period but later than the date specified in the request; and

(4) pending a public hearing, suspend the operation of the tariff filing for a period not longer than that permitted under AS 42.05.421 or AS 42.06.400.

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<sup>5</sup> *Id.*, at page 3.

utility would not be able to recover the disposal costs because there is no mechanism through which it could do so.

Staff notes that Section 3 of Ordinance No. 2022-91(S-1), provides that the SWSDU is authorized to increase rates each year from 2024 through 2028. It also provides that in each of the years during the preparation of the SWSDU budget, the Administration will review the required revenues to meet any and all debt covenants and consider SWSDU business variables that have changed and will adjust future rates, up or down, to continue to comply with such covenants.<sup>6</sup> In response to Staff's question regarding when WCA was notified of the change, WCA states that it was notified on December 12, 2023 that the percentage increased passed and approved with Ordinance No. 2022-91(S-1) would not be adjusted. WCA further states that it waited for final confirmation.<sup>7</sup> Staff believes not granting the request may cause the utility financial harm and recommends the Commission grant WCA's request for a shortened statutory notice period and allow it to use an early effective date of February 1, 2024, for TA151-692.

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<sup>6</sup> See TR2400028, filed January 2, 2024, at Section 3.

<sup>7</sup> See TR2400022, filed January 2, 2024.